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BRUCE C. BABBITT  
ATTORNEY GENERAL

April 1, 1975.

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ARIZONA ATTORNEY GENERAL

James L. Schamadan, M.D.  
Acting Director  
Arizona Department of Economic Security  
1717 West Jefferson  
Phoenix, Arizona 85007

Re: Interpretation of Chapter 99, Laws of 1969

Dear Dr. Schamadan:

This is in reply to Mr. Mayo's letter of February 27, 1975, wherein he posed four questions relating to Chapter 99, Laws of 1969, a copy of which is attached. His questions are set out and we shall answer them in the order propounded.

1. Can the 1st paragraph of Section 2 be construed to mean that the past, present and future revenue from the agricultural lease should come directly to DES-MR in much the same manner as the Club License fees (A.R.S. 4-116)?
2. The State Department of Transportation wishes the north 220 feet of the property and we have received an inquiry for the purchase of the remainder. Can any money received from the Department of Transportation be credited to DES-MR rather than to the general fund since it appears that the intent of the legislature was to benefit the Arizona Children's Colony and, I assume, its successors?
3. Can the property be sold by DES-MR and the money deposited to our credit to be used for the benefit of Mental Retardation?
4. Can the property be traded with either a private party or a public agency for other property which would benefit Mental Retardation?

ANSWERS:

1. No. A.R.S. 4-116 is a special statute granting specific authorization for the creation of a "capital investment fund" for the Department of Retardation. Only monies collected from applications and licenses for clubs may be deposited into the fund and thereafter used by the Department of Mental Retardation, which is now the Department of Economic Security. A.R.S. 41-1953. Payments from an agricultural lease inures to the

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benefit of the general fund since the legislature has made no provision for its use and expenditure. Monies belonging to the State must be deposited in the general fund. A.R.S. 35-142 A. and 35-148 B. See also Navajo Tribe v. Department of Administration, No. 11683, \_\_\_\_ Ariz. \_\_\_\_ (1974).

2. The Department of Economic Security is the successor to the Arizona Children's Colony by virtue of Chapter 168, Laws of 1970, and Chapter 158, §303, Laws of 1973.

However, we are of the opinion the State Land Department may not sell the property in question to anyone including the Department of Transportation unless the following language of Chapter 99, Laws of 1963, is amended:

"Until such time as the Arizona Children's Colony is prepared to take possession of or use the land described above, it may be leased or used, but not sold, by the State Land Department." (Emphasis ours).

If the legislature authorizes the sale, then it is up to the legislature to decide how the proceeds may be used. If legislation is silent on this point, then the proceeds of the sale will be deposited into the general fund.

3. No. See our answer to No. 2 above.
4. No. See our answer to No. 2 above.

Sincerely,

BRUCE E. BABBITT  
The Attorney General

BEB:MSF:DK

Att.